

NOT FOR PUBLICATION

JAN 24 2008

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSE LUIS RODRIGUEZ-GONZALEZ,

Defendant - Appellant.

No. 07-50048

D.C. No. CR-04-00426-RGK

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Central District of California  
R. Gary Klausner, District Judge, Presiding

Submitted January 14, 2008<sup>\*\*</sup>

Before: HALL, O'SCANNLAIN, and PAEZ, Circuit Judges.

Jose Luis Rodriguez-Gonzalez appeals from the district court's decision, following a limited remand under *United States v. Ameline*, 409 F.3d 1073, 1084-85 (9th Cir. 2005) (en banc), that it would not have imposed a different sentence

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

had it known that the Sentencing Guidelines were advisory. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Rodriguez-Gonzalez contends that the district court erred by failing to give him the opportunity to submit new evidence on remand and by failing to provide an explanation for its determination that it would not have imposed a materially different sentence had it known the Guidelines were advisory. Both arguments are foreclosed by *United States v. Combs*, 470 F.3d 1294, 1296-97 (9th Cir. 2006).

Rodriguez-Gonzalez' argument that the district court erred by re-sentencing him without a hearing is foreclosed by *United States v. Silva*, 472 F.3d 683, 686 (9th Cir.), *cert. denied*, 546 U.S. 1008 (2007).

**AFFIRMED.**